BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
3-15-16
04:59 PM

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	Rulemaking 12-06-013 (Filed June 21, 2012)

THE OFFICE OF RATEPAYER ADVOCATES REPLY TO THE RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY TO ADMINISTRATIVE LAW JUDGE'S RULING DIRECTING PG&E TO SHOW CAUSE

I. SUMMARY

The Office of Ratepayer Advocates ("ORA") files this limited Reply in support of the Administrative Law Judge's "Ruling Directing Pacific Gas and Electric Company to Show Cause Why the Commission Should Not Order Sanctions and Other Remedies in Response to PG&E Charging Rates Not Authorized By the Commission" ("OSC Ruling"), and to address issues raised in the March 11, 2015 "Response of Pacific Gas and Electric Company to Administrative Law Judge Ruling Directing PG&E to Show Cause." Assigned Administrative Law Judge McKinney authorized ORA to file this Reply in a March 14, 2016 email.[1]

ORA recommends that the Commission:

- Accept PG&E's correction to begin the implementation of four-tier "compliant rates" immediately to minimize the damage and confusion inflicted on ratepayers.
- Determine which three-tier 2016 rate would be most appropriate and the least harmful bill impacts.

[1] The email is attached to this pleading as Attachment A.

- Make PG&E shareholders responsible for reparations for revenue shortfall resulting from under billing customers due to implementation of unauthorized rates.

II. BACKGROUND

PG&E filed AL 4795-E on February 17, 2016, with substitute sheets filed February 23, 25, and 29. This advice letter consolidated several rate changes including:

1) Changes to Transmission Access and Owner Rates ("TACBAA/TO")
2) Changes to Tiered Rate Reform
    a. Change tier definitions
    b. Modify rate levels to reduce glidepath tier ratios;
    c. Reduce the CARE discount percentage
    d. Add new E-TOU Schedules
    e. Eliminate E-7 (legacy TOU), E-8 (seasonal service) EL-8, and E-9 (experimental Low Emission Vehicle)
    f. Modify Schedules E-6 (Residential TOU)
    g. Modify minimum bill calculation
    h. Modify calculation for Medical baseline and Family Electric Rate Assistance ("FERA") programs
3) Revisions to Schedule S (Standby) as directed by D.15-08-005.

ORA's plan to file protest on the advice letter by the March 8th deadline was suspended when the Energy Division ("ED") rejected PG&E's advice letter on February 29th. However, PG&E implemented its AL 4795-E rates on March 1, 2016 even though ED rejected the advice letter. Subsequently, on March 9, ALJ McKinney issued the OSC Ruling to determine whether or not PG&E should have to pay sanctions or other penalties for setting rates without Commission authorization.[2] On March 11, 2016, pursuant to the OSC's Ruling, PG&E provided the following responses:

[2] OSC Ruling, p. 1.

- Propose an immediate remedial action to comply with D.15-07-001 with a new Tier 1 compliant rate filing, which reverts rates to a 4-tiered rate restructure. These new rates would keep Tier 1 the same as established in AL 4795-E,[3] while raising other tiers at equal percentage at 4.3% to collect the revenue increases resulting from the transmission rate increases.
- Offer three rate options as possible solutions for tier flattening to meet the objectives of D.15-07-001. Request the Commission and ED's prompt guidance so that PG&E can move forward with the new rates in May, 2016.
- Assert no fault of its action and argue that PG&E should not be sanctioned.

ORA's discussion of these issues is contained below.

III. DISCUSSION AND RECOMMENDATIONS

A. PG&E's Corrected "Compliant Rates" Should be Adopted.

In its Response PG&E includes a new Tier 1 compliant rate filing by reverting to the four-tier rate structure with the Tier 1 rate capped, while other tiers would go up at the same percentage. PG&E states that this can be "implemented in PG&E's billing system 5-10 days following the filing and acceptance of the Tier 1 advice filing.[4]"

Given the need to respond quickly and correct the incorrect rates, ORA recommends that the "Compliance Rates" as listed in Table 1 on page 3 of PG&E's Response be adopted immediately. These new compliant rates do follow the Commission's established rate change rules when there is a revenue increase[5] before the Commission can address the tier collapsing issues.

[3] Tier 1 rate would be capped at residential class average rate increase plus 5 percent as adopted by D.15-07-001.

[4] Response of PG&E to ALJ Ruling Directing PG&E to Show Cause, March 11, 2015.

[5] D.15-07-001, pp. 276-278.

B. Determine Which Three-tier Rate Would be Most Appropriate for the Medium-term.

D.15-07-001 set forth the glidepath "tier differential as a ***guideline***"[6], recognizing that the various goals between capping increases to tier 1 rates[7], and achieving pre-defined tier ratios while simultaneously satisfying the revenue requirement may contradict one another. The fixed cap on tier 1 prices requires more flexibility in determining the proper price differentials for the other tiers moving forward. For this reason, divergence from the tier glidepath guidelines from D.15-07-001 is necessary in order to properly implement these changes while tempering customer bill impacts as rates move to 1:1.25 ratio by 2019 or later.

PG&E ALTERNATIVE RATE SCENARIOS

On March 11, 2016, PG&E provided the following rate options for the Commission to consider so that it can implement a 3-tiered rate in May, 2016.

	Rate A	Rate B	Rate C
	AL 4795-E Rates		
Non-CARE	T1 capped, T3:T2=1.47; T3:T1: 2.0	T1 capped, T3:T2=1.23; T3 Floats	T1 capped, T3=0.3999; T2 floats
Tier 1	$0.18212	$0.18212	$0.18212
Tier 2	$0.25444	$0.22612	$0.24007
Tier 3	$0.25444	$0.22612	$0.24007
Tier 4	$0.37442	$0.42481	$0.39999

ORA offers limited comments on each scenario:

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[6] D.15-07-001 p. 278. Emphasis added.

[7] D.15-07-001 p. 284. The Decision put into place conditions to mitigate any disproportionate bill impacts and rate shock to customers as glidepath changes are implemented. These conditions include but are not limited to the following:

> Revenue Requirement Increases: allow tiers to move on an equal percent basis, except that Tier 1 increases resulting from the tier consolidation are capped at RAR plus 5% relative to rates for the prior 12 months. The glidepath should be no steeper than necessary to reach 1:1.25 by 2019. The glidepath shall continue until the later of (i) January 1, 2019 or (ii) the year the 1:1.25 tier ratio is achieved.

- Rate A was PG&E's originally proposed rate, which was rejected on the basis that the rate increase to tier 2 usage was too high at 36%.
- Rate B complies with the cap on rate increases to tier 1 usage, exhibits a much smaller increase to tier 2 usage of 21% as opposed to the original 36%. As a results, tier 3 is left to shoulder the rest of the revenue requirement. While this proposal does mitigate bill impacts for customers using less than 130% of baseline, the ratio between tiers 3 and 1 would be too much of a divergence from the glidepath illustrated in the Decision, and could substantially delay tier convergence.
- Rate C is a "middle ground" proposal. It complies with the rate increase cap on tier 1 usage and balances the need to consider bill impacts that would result from increasing tier 2 rates without completely getting off track from the glidepath. Thus, this proposal trades expediency to tier collapsing with mitigating bill impacts.

To illustrate this tradeoff, ORA conducted an expedient bill impact analysis using the baseline quantities provided in Table 3 of PG&E's Response.

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Rate								
		3/1/2015	1/1/2016	Rate A		Rate B		Rate C
Baseline energy	100.00	$0.16352	$0.18151	$0.18212		$0.18212		$0.18212
T2	130 of Baseline	$0.18673	$0.21546	$0.25444		$0.22612		$0.24007
T3	130-200 of Baseline	$0.27504	$0.27380	$0.25444		$0.22612		$0.24007
T4	201-400 of Baseline	$0.33504	$0.34875	$0.37442		$0.42481		$0.39999
5	Above 400 of Baseline	$0.33504	$0.34875	$0.37442		$0.42481		$0.39999

Bill Impact												
				Rate A			Rate B			Rate C		
	Summer usage	Bill at 3/1/2015 $/mo	Bill at 1/1/2016 $/mo	Monthly Bill	$ Change Since 3/1/2015	% Change	Monthly Bill	$ Change Since 3/1/2015	% Change	Monthly Bill	$ Change Since 3/1/2015	% Change
San Francisco (T)												
Baseline	215	$35.16	$39.32	$39.16	$4.00	11.375%	$39.16	$4.00	11.375%	$39.16	$4.00	11.375%
130	280	$47.29	$53.93	$55.69	$8.40	17.761%	$53.85	$6.56	13.869%	$54.76	$7.47	15.786%
200	430	$88.55	$94.11	$93.86	$5.31	5.997%	$87.77	-$0.78	-0.879%	$90.77	$2.22	2.508%
300	645	$160.58	$169.10	$174.36	$13.78	8.579%	$179.11	$18.52	11.534%	$176.77	$16.18	10.079%
400	860	$232.62	$244.58	$254.86	$22.24	9.562%	$270.44	$37.82	16.260%	$262.77	$30.15	12.961%
San Jose (X)												
Baseline	310	$50.69	$56.27	$56.46	$5.77	11.375%	$56.46	$5.77	11.375%	$56.46	$5.77	11.375%
130	403	$68.06	$76.31	$80.12	$12.06	17.725%	$77.46	$9.43	13.855%	$78.78	$10.73	15.761%
200	620	$127.74	$135.74	$135.33	$7.59	5.944%	$126.55	-$1.19	-0.929%	$130.88	$3.14	2.457%
300	930	$231.60	$243.86	$251.40	$19.80	8.549%	$258.25	$26.64	11.503%	$254.88	$23.27	10.048%
400	1240	$335.47	$351.57	$367.47	$32.01	9.541%	$389.94	$54.47	16.237%	$378.87	$43.41	12.939%
Bakersfield (W)												
Baseline	515	$84.21	$93.49	$93.79	$9.58	11.375%	$93.79	$9.58	11.375%	$93.79	$9.58	11.375%
130	670	$113.16	$126.87	$133.23	$20.07	17.740%	$128.84	$15.68	13.861%	$131.00	$17.85	15.772%
200	1030	$212.17	$225.47	$224.83	$12.66	5.966%	$210.24	-$1.93	-0.909%	$217.43	$5.26	2.478%
300	1545	$384.72	$405.09	$417.65	$32.94	8.562%	$429.02	$44.30	11.516%	$423.42	$38.71	10.061%
400	2060	$557.26	$584.70	$610.48	$53.22	9.550%	$647.80	$90.54	16.247%	$629.42	$72.16	12.948%

ORA is frustrated by the fact that the current Tier 2 rate increase would be set at a level that normally is quite unacceptable. However, ORA is also concerned that the new rates would be kicking in in the summer, and customers with high usages facing a more than 40-cent/kWh rate could see unacceptable bill impacts.

It appears that the Commission may not have good options when there are multiple objectives that the rate reform needs to accomplish. The situation is exacerbated due to the fact that PG&E's annual revenue increases have been much higher than the Consumer Price Index increases while the residential sales declined over the last couple years. Taking all of these factors into consideration, ORA hesitantly recommends Rate C to be implemented for the 2016 glidepath rate. ORA also recommends CARE rates to be set at $0.121/kWh, $0.149/kWh, and $0.202/kWh for the new Tier 1, 2, and 3, respectively. These CARE rates are somewhat different from the Rate C option that PG&E included in its AL 4795-E workpapers.[8] ORA would like to emphasize that this kind of rate increase can only be considered under extreme circumstances and should not be used for precedent as an acceptable rate change

C. Mitigating Customer Harm in the Interim

The OSC Ruling ordered a supplemental filing, which requested information about how many customers were being overcharged or undercharged, and by how much. PG&E did not provide this data, but instead, provided some aggregated information.[9] The Commission should order PG&E to track customers who were overcharged or uncharged, and share this information with the Energy Division, ORA and other intervenors in this case via the service list. When the new Tier 3 rates are adopted, PG&E should credit customers who were harmed. This credit could occur within a reasonable time period given limitations of the billing system. Customers who are under-billed should not have to pay back the under-charge: shareholders should bear this revenue loss due to the fact that PG&E had moved forward in billing its customers rates prior to authorization from the CPUC.

The OSC Ruling directs PG&E to "show cause as to why…it should not be sanctioned by the Commission and ordered to make reparations at shareholder expense."[10] ORA supports requiring PG&E shareholders to fund recovery of PG&E's revenue under-collection, consistent with CPUC precedent. For instance, in D.07-09-041 the Commission found that PG&E had overbilled customers by approximately $35 million. PG&E argued that refunds to these customers should come from the general class of ratepayers. The Commission disagreed:

> PG&E's argument rests on the premise that ratepayers are responsible for the cost of any refunds, which we reject. Shareholders are responsible for funding any refunds for

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[8] Specifically, ORA increases T1 rates by the RAR plus 5% cap (a 11.37% increase), and caps T3 rates at $.202 (a 20.5% increase), leaving T2 to shoulder rest of the revenue requirement not picked by the other tiers.

[9] Response to questions 6 and 7, pp. 8 and 9.

[10] OSC Ruling, p. 4.

> improperly backbilled amounts in violation of Rule 17.1. PG&E's ability to comply with its tariffs is entirely within its control; it is not the ratepayers' responsibility. Were we to assign ratepayers the responsibility for funding refunds that result from PG&E's tariff violations, the utility management would have no incentive to strive for compliance.[11]

PG&E argues that it should not be penalized for improperly raising tier two rates without authorization because the company "does not profit from the rate design changes" and the rate design changes are a "zero sum."[12] PG&E's argument is insensitive and dismissive of the effect that changes to rate design can have on individual customers, whether or not, as a class, residential customers are indifferent to rate changes. As PG&E knows from participating in this proceeding, which has involved contentious hearings and briefings, many parties differ from PG&E on how residential rate design reform should be accomplished. Decision (D.) 15-07-001 very clearly rejected PG&E's proposed tier differentials and glidepath for tier consolidation.[13] Instead, the Commission adopted many of ORA's proposals on avoiding bill shock. PG&E's response, to implement rate changes more aggressively and more aligned with its rejected litigation position despite having its proposal rejected by the Commission, is unacceptable.[14] The company should bear responsibility for this intentional conduct.

D. Re-Examine A Long-Term Perspective For Implementing The Glide-Path Rates Determined in D.15-07-001

ORA finds a Tier 1 advice letter to be an inappropriate mechanism for examining substantive rate changes, and recommends that the Commission directs the IOUs to file Tier 2 advice letters. The ALJ appeared to have taken this into

[11] D.07-09-041, 2007 Cal. PUC LEXIS 448, *20.

[12] PG&E Response, p. 8.

[13] D.15-07-001, pp. 274-279.

[14] The OSC Ruling notes that PG&E's unilaterally imposed rate change results in a 38 percent increase to tier 2 rates even though the Commission rejected a 19 percent tier 2 rate increase in D.15-07-001.

consideration. In her ruling on March 14, 2016, the ALJ provides the following clarification for filing glidepath rates:

To ensure compliance with GO 96-B and D.15-07-001, and to allow sufficient time for review, the following applies each time an IOU files for a rate change approved in D.15-07-001:

> (1) If the new rates exactly match the glidepath set forth in D.15-07-001, and a Tier 1 AL is authorized by D.15-07-001, then a Tier 1 AL may be used. The Tier 1 AL must include the required worksheets and sufficient workpapers for Energy Division staff and others to quickly determine if the proposed rate change complies with the specific requirements of D.15-07-001. The Tier 1 AL must be filed separately from other rate changes (even if the other rate changes are scheduled to go into effect on the same date) and be filed at least 30 days prior to the intended effective date.
>
> (2) If the new rates do not exactly match the glidepath, a Tier 2 AL must be filed. The Tier 2 AL must include the required worksheets and sufficient workpapers for Energy Division staff and other parties to quickly determine if the proposed rate change complies with the requirements of D.15-07-001. The Tier 2 AL must also describe why the D.15-07-001 glidepath could not be followed, and must be filed at least 45 days prior to the planned effective date.

The Commission should also consider adjusting the final ratio between the final two tiers in 2019. Given the uncertainty in revenue requirements and customer demand, it is difficult to forecast the appropriate ratios between tiers in each year.

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In particular, some rate pressures may be best addressed by allowing the tier differential in the final phase to be greater than 1 to 1.25 and that the tier flattening effort may continue thereafter even as customers are defaulted to TOU rates.

Respectfully submitted,

/s/ GREGORY HEIDEN
GREGORY HEIDEN

Attorney for
The Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 355-5539
Facsimile: (415) 703-2262
E-mail: gregory.heiden@cpuc.ca.gov

March 15, 2016